

The Westfield-Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, July 12, 2016, at Westfield City Hall. Members present included Ken Kingshill, Martin Raines, Dave Schmitz, and Robert Smith. Also present were Jesse Pohlman, Senior Planner; Kevin Todd, Senior Planner; Amanda Rubadue, Associate Planner; and Brian Zaiger, City Attorney.

### **APPROVAL OF MINUTES**

Schmitz moved to approve the May 10, 2016, meeting minutes.

Raines seconded, and the motion passed 4-0.

Smith introduced the proposed amendments to the Rules of Procedure.

Kingshill motioned for Adoption of the Amended Rules of Procedure.

Schmitz seconded and the Motion passed 4-0.

Pohlman reviewed the Public Hearing Rules and Procedures.

### **ITEMS OF BUSINESS**

#### **1606-VS-09**

#### **[PUBLIC HEARING]**

#### **1602 East 203<sup>rd</sup> Street**

Kurt & Marla Ailor

The petitioner is requesting a Variance of Development Standard to allow an Accessory Building in the Established Front Yard (Article 6.1(D)(2)(a)) in the AG-SF1: Agriculture / Single-Family Rural District.

Rubadue presented an overview of the requested Variance of Standard, as summarized in the Department report.

Marla Ailor introduced herself and gave a brief presentation.

Public Hearing opened at 7:07 p.m.

No public comments.

Public Hearing closed at 7:08 p.m.

Raines motioned to approve the Variance of Standard to allow an Accessory Building in the Established Front Yard (Article 6.1(D)(2)(a)) with the condition that the Accessory Building shall be substantially similar to the petitioner's rendering (Exhibit 4 of the Department report).

Kingshill seconded and the Motion passed 4-0.

Schmitz moved to adopt the Department's recommended findings of fact for approval.

Kingshill seconded and the Motion passed 4-0.

**1606-VS-10**

**[PUBLIC HEARING]**

**4535 East 169<sup>th</sup> Street**

Omar Usmani (Children's Montessori House)

The petitioner is requesting Variances of Development Standard to modify the landscaping requirements (Article 6.8) for an Institutional Use in the SF3: Single-Family Medium Density District.

Todd presented an overview of the requested Variances of Standard, as summarized in the Department report.

Omar Usmani introduced himself and gave a brief presentation.

Public Hearing opened at 7:18 p.m.

Todd distributed two letters of support for the Board's review that were submitted to the Department prior to the hearing.

Richard Erickson, 4238 Crestor Court: Stated his opposition to the request because of the increased intensity from the in-home daycare to a school. Noted he was unable to sit outside in his rear yard abutting the property because of the noise from the children. He distributed a petition from himself and neighbors expressing their concerns.

Public Hearing closed at 7:23 p.m.

Schmitz asked about the land use.

Todd explained the use was permitted; however, the proposed parking improvements triggered the detailed development plan review process which then triggers the landscaping requirements.

Kingshill inquired about the restrictions along the east property line due to existing power line easement and whether the petitioner could otherwise accommodate the required landscaping along the west and north property lines.

Todd responded that the power line easement has restrictions for plantings within the easement and that Duke Energy reviewed the proposed landscaping within the easement through the Technical Advisory Committee review process and expressed no concerns with the landscaping as proposed.

Usmani noted that he would be willing to incorporate the mounding and required plantings along the west and north property lines; however, he wanted to try to maintain the residential character and was concerned about the potential impact mounds may have on the drainage for his property and the adjacent properties.

The Board discussed whether additional information was needed regarding drainage to determine whether a variance was appropriate.

Usmani requested the Board continue his request.

Schmitz motioned to continue 1606-VS-10 to the next Board meeting.

Raines seconded and the Motion passed 4-0.

**1606-VS-11**

**[PUBLIC HEARING]**

**18957 Mule Barn Road**

Jess and Courtney McKinney

The petitioner is requesting a Variance of Development Standard for a reduction in the Building Setback Line for an Accessory Building (Article 6.1(D)(2)(b)) in the AG-SF1: Agriculture / Single-Family Rural District.

Rubadue presented an overview of the requested Variance of Standard, as summarized in the Department report.

Jess McKinney introduced himself and gave a brief presentation.

Public Hearing opened at 7:36 p.m.

No public comments.

Public Hearing closed at 7:37 p.m.

Raines motioned to approve the Variance of Development Standard for a reduction in the Side and Rear Yard Building Setback Lines from thirty (30) feet to fifteen (15) feet for an Accessory Building (Article 6.1(D)(2)(b)) with the condition that the Accessory Building shall be constructed substantially similar to the petitioner's elevations (Exhibit 4 of the Department report).

Kingshill seconded and the Motion passed 4-0.

Schmitz moved to adopt the Department's recommended findings of fact for approval.

Kingshill seconded and the Motion passed 4-0.

**1606-VS-12**

**[PUBLIC HEARING]**

**14837 Thatcher Lane**

Crew Carwash

The petitioner is requesting Variances of Development Standard for the construction of an Accessory Building (canopy structure) (Articles 4.3(F), 5.2, 6.3(F), and 6.8) in the SB-PD: Special Business / Planned Development District.

Rubadue presented an overview of the requested Variances of Standard regarding the proposed detached canopy structure, as summarized in the Department report.

Mike Thompson, Hamilton Designs on behalf of the petitioner, gave a brief presentation regarding the existing site conditions and purpose of the canopy.

Public Hearing opened at 7:42 p.m.

No public comments.

Public Hearing closed at 7:43 p.m.

Board discussed the existing pavement location and the proposed design as it relates to the existing principal building and recent US31 Highway improvements.

Schmitz motioned to approve the Variance of Development Standard for a reduction in the Side Yard Building Setback Line for an Accessory Building (Article 6.1(D)(1)(b)(ii)) from fifteen (15) feet to six (6) inches.

Raines seconded and the Motion passed 4-0.

Schmitz moved to adopt the Department's recommended findings of fact for approval.

Kingshill seconded and the Motion passed 4-0.

Schmitz motioned to approve the Variances of Development Standard from Article 6.3(F)(5)(a) and (b) Building Elevations, Article 6.5(F)(7)(b) Roof Design, and Article 6.5 (F)(11) Gasoline Service Station Canopies to not apply to the proposed detached canopy structure.

Kingshill seconded the motion; Motion passed 4-0.

Schmitz moved to adopt the Department's recommended findings of fact for approval.

Kingshill seconded and the Motion passed 4-0.

Schmitz motioned to approve the Variances of Development Standard from Article 6.8(L) Foundation Plantings and Article 6.8(O)(2) Perimeter Parking Area Landscaping to not apply to the proposed detached canopy structure.

Kingshill seconded the motion; Motion passed 4-0.

Schmitz moved to adopt the Department's recommended findings of fact for approval.

Kingshill seconded and the Motion passed 4-0.

**1510-SE-03**  
**[PUBLIC HEARING]**

**16414 Towne Road (Findings of Fact)**

Crown Castle

The petitioner is requesting approval of a Special Exception to allow a new Wireless Communication Service Facility in the AG-SF1: Agriculture / Single-Family Rural District (Chapter 13: Use Table).

Zaiger presented a summary of the Court's Order of April 18, 2016, which identified two findings the petitioner could provide further evidence for the Board's consideration regarding:

1. Whether the Special Exception will not be injurious to the use and enjoyment of other property in the vicinity for the purposes already permitted, nor substantially diminish and impair the property value within the neighborhood; and
2. Whether the establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

Matt Price, Attorney with Bingham Greenebaum Doll on behalf of the petitioner, presented a handout with additional information relative to the two findings for the Board's consideration in re-determining the matter.

Board discussed the assumptions and asked questions for clarification regarding the vicinity assessed value analysis as it relates to market value.

Smith noted for the record that no evidence was presented to the Board by a party in standing that was to the contrary of the petitioner's evidence.

Board clarified the action in which they were being requested to consider by the Court order.

Schmitz motioned to grant the Special Exception with the amended findings and supporting evidence as presented by the petitioner.

Smith seconded and the Motion passed 4-0.

**1607-VS-13**  
**[PUBLIC HEARING]**

**18881 IMMI Way**

IMMI (Indiana Mills & Manufacturing, Inc.)

The petitioner is requesting a Variance of Standard to allow for the proposed campus interior circulation sign package (Article 6.17(H)).

Rubadue presented an overview of the requested Variance of Standard, as summarized in the Department report.

Susan Mueller, on behalf of the petitioner, gave a brief presentation noting the need for the modified interior circulation signs.

Public Hearing opened at 8:15 p.m.

No public comments.

Public Hearing closed at 8:16 p.m.

Raines motioned to approve the Variance of Standard to allow the proposed campus interior circulation sign package (Article 6.17(H)) with the following conditions:

1. Signs shall be installed in substantial compliance with the Site Plan Exhibit (Exhibit 3 of the Department report) and Sign Elevations Exhibit (Exhibit 4 of the Department report).
2. The Variance of Development Standard shall expire upon approval of an ordinance by the Council changing the zoning district of any portion of the property, unless otherwise approved by the Director. If approved, it is contemplated the essential terms of this variance will be incorporated into any subsequent zoning request pertaining to the campus.

Kingshill seconded and the Motion passed 4-0.

Schmitz moved to adopt the Department's recommended findings of fact for approval.

Kingshill seconded and the Motion passed 4-0.

### **REPORTS/COMMENTS**

Plan Commission Liaison report by Schmitz.

Economic and Community Development Department report by Jesse Pohlman introduced the Department's two new Associate Planners, Daine Crabtree and Matt Pleasant.

Kingshill motioned to adjourn the meeting.

Schmitz seconded, and the motion passed.

The meeting adjourned at 8:22 p.m.

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Chairperson  
Robert Smith, Esq.

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Secretary  
Matthew S. Skelton, Esq., AICP  
Director